

HRM624 Conflict Management Final Term Subjective Questions

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Why most of the People indulge in Stereotyping inspite of in-depth investigation?

The propensity to judge people based on stereotype is general practice. It is in human cognitive system.

Why People Stereotype

The effect of stress and situational complexity; the more stressful the situation, the more likely it is that stereotyping will occur

Interpersonal conflict tends to be an inherently stressful and complex situation that tends to impose a high degree of cognitive load.

Fatigue, illness, hunger, and intense emotion; personal factors contribute to cognitive load. It also affects the propensity to stereotype.

- Unfamiliarity with the other person
- Unfamiliarity with the racial, ethnic, religious, or other social group
- Social group salience
- Strong category is a social category associated with a particularly strong likelihood of stereotypes application.
- Strong categories tend to be those associated with obvious physical attributes and rigid social roles.

(Gender roles is an example)

In which situation, mediation is recommended the most?

Mediation

Mediation is second class justice. It is a type of assisted negotiation that uses a third party (or panel of third parties) to help disputants negotiate their settlement. This third party, who is called the mediator, is typically impartial with respect to the disputants and neutral as to the settlement reached.

When is mediation required

When interpersonal conflict occurs, the most common approach to resolving it is negotiation – an interplay and a dialogue between the disputants and their representatives aimed at resolving the conflict. If negotiation does not resolve the conflict, and if the conflict involves legal issues, litigation is the only option many disputants see as recourse.

What factors should be considered before conducting the process of arbitration?

Before Arbitration

When should a dispute be arbitrated?

Enforceability and arbitrability

Enforceability: Whether the contract to arbitrate is valid and can be enforced against the party seeking to avoid arbitration.

Arbitrability: Whether a particular dispute is subject to an agreement to arbitrate.

If the extreme enemies want to adopt the means other than litigation to resolve their issue, which method would be the most effective for them?

Alternative Dispute Resolution, or ADR, is a way of resolving disputes without going to court. Common forms are of ADRs are as under:

1. Negotiation
2. Mediation
3. Conciliation
4. Arbitration
5. Adjudication
6. Conciliation

Best method for extreme enemies to resolve the dispute without going to court is Conciliation which is the least intrusive of the third-party processes. A neutral person agreeable to all parties is selected to serve as conciliator. The conciliator serves as a go-between. Typically the conciliator meets separately with each party in attempts to persuade the parties to proceed with each other. Thus, the conciliator's primary role is to reestablish or improve communication between the parties. When the parties are too angry to speak with each other, a conciliator may be all that is needed.

Describe a situation in which 'Avoidance' could be the best possible solution.

Avoidance

Avoiding a conflict involves just letting it go and pretending it does not exist. Avoidance does not consider either party's views and essentially dismisses the conflict altogether as unimportant or unworthy of consideration. Avoidance might work in a conflict if a larger argument may arise or the situation lacks real importance..

What steps should be followed after the arbitration process for making it successful?

After Arbitration

1. Enforcement of arbitration awards.
2. Review of arbitration awards.
3. Choice of law during arbitration.
4. Choice of law in matters of enforceability, arbitrability and reviewability

What are the main differences between Facilitative and Evaluative mediation?

In **facilitative mediation**, the mediator's primary function is to promote effective negotiation or dialogue.

Facilitative mediators use techniques designed to promote effective negotiation as they view it: they lay ground rules for effective communication, help participants discover their interests and those of their counterparts, guide the disputants in the steps of cooperative negotiation, and intervene at all stages of the conflict cycle to keep the conflict as noncompetitive as possible. The strictly facilitative mediator assiduously avoids any evaluation of the merits or strengths of either disputant's case.

Evaluative mediation

In evaluative mediation, the mediator's primary function is to narrow the gap between the positions taken by the two disputants. Evaluative mediation assumes that negotiation will be a process of positional bargaining. Another way to think of this process is that evaluative mediation is a process of BATNA clarification. Nonbinding evaluation is different from evaluative mediation. Mediator will go beyond evaluation and broker settlement. In nonbinding evaluation, the process generally stops with evaluation.

In evaluative mediation, the mediator works to narrow the gap between the demands of each disputant by expressly evaluating the merits, strengths, and weaknesses of each disputant's position and by strategically communicating these evaluations to the disputants. In extreme forms of evaluative mediation, the centerpiece of the process may be a single evaluation of the likely outcome if the dispute is taken to court.

An extremely evaluative mediation may closely resemble nonbinding evaluation: the neutral hears all sides of the issue and then issues an opinion regarding how the case might be decided if it were to be litigated.

There is also much blurring in practice between facilitative and evaluative mediation. Many mediators practice midway along this continuum, and some mediators jump from facilitative to evaluative approaches based on what they think will promote the goals of the mediation.

Give an example of stereotype and justify it.

Stereotypes

Stereotyping involves a form of categorization that organizes our experience and guides our behavior toward ethnic and national groups. Stereotypes never describe individual behavior; rather, they describe the behavioral norm for members of a particular group. For example, the stereotypes of English and French businesspeople, as analyzed by Intercultural Management Associates in Paris, are described as follows:

We have found that to every set of negative stereotypes distinguishing the British and French there corresponds a particular values divergence that, when recognized, can prove an extraordinary resource. To illustrate: The French, in describing the British as "perfidious," "hypocritical," and "vague," are in fact describing the Englishman's typical lack of a general model or theory and his preference for a more pragmatic, evolutionary approach. This fact is hard for the Frenchman to believe, let alone accept as a viable alternative, until, working alongside one another, the French man comes to see that there is

usually no ulterior motive behind the Englishman's vagueness but rather a capacity to think aloud and adapt to circumstances. For his part, the Englishman comes to see that, far from being "distant," "superior," or "out of touch with reality," the Frenchman's concern for a general model or theory is what lends vision, focus, and cohesion to an enterprise or project, as well as leadership and much needed authority

What powers are posses by the Jirga under Frontier Crimes Regulation (FCR) of 1901? (Marks 5)

Definition of Jirga

1. A Pashto term for a decision making assembly of male elders; most criminal cases are handled by a tribal Jirga rather than by state laws or police.
2. A Jirga (occasionally jirgah) (Urdu: جگرچ) is a tribal assembly of elders which takes decisions by consensus, particularly among these Pashtuns but also in other ethnic groups near them; they are most common among the Pashtuns in Pakistan and Afghanistan.
3. Loya Jirga - a grand council or grand assembly used to resolve political conflicts or other national problems. (Example: Recent Pak Afghan Jirga)

Frontier Crimes Regulation (FCR) of 1901

Due to efficiency and people's acceptability, sometimes tribal jirgas are recognized as lawfully established judicial tribunals, although the law under which they are created, the (Frontier Crimes Regulation (FCR) of 1901), has been generally denounced by the superior judiciary of the country and also by some people

Powers of Jirga under FCR

Theoretically, a Jirga's findings are in the form of an advice, but custom has elevated these findings to the level of a court verdict which usually translates into law. (a kind of ADR). This law is applicable only to the tribal areas. The council of elders has jurisdiction in both civil and criminal matters. No appeal is generally allowed against Jirga verdicts although the commissioner can review any case.

A jirga has sweeping powers to impose penalties in criminal cases. It can award punishments in the shape of fines, whipping, life imprisonment, demolition of a convict's house and the blockade by a hostile or unfriendly tribe. Technically, under the FCR, a jirga cannot award capital punishment

Legal issues involve in ODR?

Legal Issues in ODR

There are some issues which are involved in ODR e.g.

1. Where did the dispute arise? (Cyberspace dispute choice of law problem)
2. Where is ADR taking place? (ADR choice of law problem)

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To creating BATNA, the negotiator what should to do?

Identify/maximize the Best Alternative To a Negotiated Agreement (BATNA)

Develop a list of alternative to a negotiated agreement, including the best alternative to a negotiated agreement, or BATNA. If you are a disputant, agent or an advocate, develop plans for clarifying these alternatives and improving them.

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